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Of Attorneys for Defendant Magnus Lakovics, MD

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
(Eugene Division)

MINNY FRANK,

Plaintiff,

v.

CASCADE HEALTHCARE COMMUNITY,  
INC. dba ST. CHARLES MEDICAL CENTER,  
MAGNUS LAKOVICS, MD and EDWARD  
PALMER, MD,

Defendants.

No. 6:11-CV-06402-AA

**DEFENDANT MAGNUS LAKOVICS,  
MD'S ANSWER TO PLAINTIFF'S  
COMPLAINT**

**JURY TRIAL REQUESTED**

In answer to plaintiff's Complaint, defendant Magnus Lakovics, MD (hereinafter referred to as "Lakovics") admits, denies, and alleges as follows:

**PRELIMINARY STATEMENT**

Except as specifically indicated otherwise herein, Lakovics denies knowledge or information sufficient to form a belief as to the truth of each and every allegation made about any individual, corporation or entity other than Lakovics.

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## INTRODUCTION

1. Lakovics admits that he is a physician and at times practices at Cascade Healthcare Community, Inc., dba St. Charles Medical Center. Lakovics has insufficient knowledge or information to form a belief as to the truth of the other allegations contained in paragraph 1 of the Complaint and therefore denies the same.

2. Lakovics admits that plaintiff was brought to St. Charles Medical Center's emergency room on or about January 13, 2010. Lakovics has insufficient knowledge or information to form a belief as to the truth of the remaining allegations contained in paragraph 2 of the Complaint and therefore denies the same.

3. The allegations contained in paragraph 3 of the Complaint state legal conclusions to which no responsive pleading is required. To the extent an answer is required, Lakovics admits that the court has diversity jurisdiction over the state claims as they pertain to him but denies the remaining allegations. Lakovics has insufficient knowledge or information to form a belief as to the truth of the remaining allegations contained in paragraph 3 of the Complaint and therefore denies the same.

## I. PARTIES

Lakovics admits that he is a physician whose office address is 1345 N.W. Wall Street, Suite 200, Bend, Oregon 97701. Lakovics has insufficient knowledge to form a belief as to the truth of the remaining allegations contained under the heading "Parties" and therefore denies the same.

## II. JURISDICTION

The allegations contained in under "Jurisdiction" of the Complaint state legal conclusions to which no responsive pleading is required. To the extent an answer is required, Lakovics admits that the court has diversity jurisdiction over the state claims as they pertain to him but denies the remaining allegations.

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### **III. STATEMENT OF FACTS**

4. Lakovics has insufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 4 of the Complaint and therefore denies the same.

5. Lakovics has insufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 5 of the Complaint and therefore denies the same.

6. Lakovics has insufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 6 of the Complaint and therefore denies the same.

7. Lakovics has insufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 7 of the Complaint and therefore denies the same.

8. Lakovics admits that on January 13, 2010, plaintiff was suicidal and threatened to harm herself and that 911 was called. Lakovics has insufficient knowledge and information to form a belief as to the remaining allegations contained in paragraph 8 of the Complaint and therefore denies the same.

9. Lakovics has insufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 9 of the Complaint and therefore denies the same.

10. Lakovics has insufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 10 of the Complaint and therefore denies the same.

11. Lakovics has insufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 11 of the Complaint and therefore denies the same.

12. Plaintiff's Complaint does not contain a paragraph numbered 12.

13. Lakovics has insufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 13 of the Complaint and therefore denies the same.

14. Lakovics has insufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 14 of the Complaint and therefore denies the same.

15. Lakovics has insufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 15 of the Complaint and therefore denies the same.

16. Lakovics has insufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 16 of the Complaint and therefore denies the same.

#### **IV. FIRST CLAIM FOR RELIEF – AS TO THE HOSPITAL**

##### **A. Title III of the Americans with Disabilities Act**

17. In response to paragraph 17, Lakovics realleges his responses to paragraphs 1-16 of the Complaint as though contained fully herein.

18. The allegations contained in paragraph 18 of the Complaint state legal conclusions to which no responsive pleading is required.

19. The allegations contained in paragraph 19 of the Complaint state legal conclusions to which no responsive pleading is required.

20. The allegations contained in paragraph 20 of the Complaint state legal conclusions to which no responsive pleading is required.

21. The allegations contained in paragraph 21 of the Complaint state legal conclusions to which no responsive pleading is required.

##### **Failure to Provide Reasonable Accommodations**

22. The allegations contained in paragraph 22 of the Complaint state legal conclusions to which no responsive pleading is required.

23. Lakovics has insufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 23 of the Complaint and therefore denies the same.

24. Lakovics has insufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 24 of the Complaint and therefore denies the same.

25. Lakovics has insufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 25 of the Complaint and therefore denies the same.

##### **Unequal Access to Services**

26. Lakovics has insufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 26 of the Complaint and therefore denies the same.

### **Discriminatory Eligibility Criteria**

27. The allegations contained in paragraph 27 of the Complaint state legal conclusions to which no responsive pleading is required.

28. Lakovics has insufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 28 of the Complaint and therefore denies the same.

29. Lakovics has insufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 29 of the Complaint and therefore denies the same.

30. Lakovics has insufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 30 of the Complaint and therefore denies the same.

### **Discriminatory Methods of Administration**

31. The allegations contained in paragraph 31 of the Complaint state legal conclusions to which no responsive pleading is required.

32. Lakovics has insufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 32 of the Complaint and therefore denies the same.

### **Section 504 of the Rehabilitation Act**

33. In response to paragraph 33, Lakovics realleges his responses to paragraphs 1-32 of the Complaint as though contained fully herein.

34. The allegations contained in paragraph 34 of the Complaint state legal conclusions to which no responsive pleading is required.

35. Lakovics has insufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 35 of the Complaint and therefore denies the same.

36. Lakovics has insufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 36 of the Complaint and therefore denies the same.

37. Lakovics has insufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 37 of the Complaint and therefore denies the same.

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38. Lakovics has insufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 38 of the Complaint and therefore denies the same.

**Less Effective Services**

39. The allegations contained in paragraph 39 of the Complaint state legal conclusions to which no responsive pleading is required.

40. Lakovics has insufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 40 of the Complaint and therefore denies the same.

41. Lakovics has insufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 41 of the Complaint and therefore denies the same.

**Failure to Provide Reasonable Accommodations**

42. Lakovics has insufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 42 of the Complaint and therefore denies the same.

43. Lakovics has insufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 43 of the Complaint and therefore denies the same.

44. Lakovics denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 44 of the Complaint and therefore denies the same.

**Limiting the Participation of Qualified Handicapped Persons**

45. Lakovics has insufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 45 of the Complaint and therefore denies the same.

**Discriminatory Methods of Administration**

46. Lakovics has insufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 46 of the Complaint and therefore denies the same.

47. Lakovics has insufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 47 of the Complaint and therefore denies the same.

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**SECOND CLAIM FOR RELIEF – NEGLIGENCE**

48. In response to paragraph 48 of the Complaint, Lakovics re-alleges his responses to paragraphs 1-47 of the Complaint as though contained fully herein.

49. Lakovics denies the allegations of paragraph 49 of the Complaint to the extent those allegations pertain to him. As to the remaining allegations, Lakovics has insufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 49 of the Complaint and therefore denies the same.

50. Lakovics admits that if plaintiff was a patient at the hospital and if Lakovics was involved in her care, Lakovics owed plaintiff a duty of reasonable care. Except as otherwise expressly admitted, Lakovics denies the remaining allegations contained in paragraph 50 of the Complaint to the extent they pertain to him. Lakovics has insufficient knowledge and information to form a belief as to the truth of the remaining allegations as they relate to Defendant Dr. Edward Palmer and therefore denies the same.

51. Lakovics denies the allegations of paragraph 51 of the Complaint to the extent those allegations pertain to him. Lakovics has insufficient knowledge and information to form a belief as to the truth of the allegations as contained in paragraph 51 of the Complaint as they relate to Defendant Dr. Edward Palmer and therefore denies the same.

**THIRD CLAIM FOR RELIEF -**

**INTENTIONAL OR RECKLESS INFILCTION OF EMOTION DISTRESS**

52. In response to paragraph 52, Lakovics realleges his responses to paragraphs 1-51 of the Complaint as though contained fully herein.

53. Lakovics denies the allegations contained in paragraph 53 of the Complaint to the extent those allegations pertain to him. As to the remaining allegations, Lakovics has insufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 53 and therefore denies the same.

54. Lakovics denies the allegations contained in paragraph 54 of the Complaint to the

extent those allegations pertain to him. As to the remaining allegations, Lakovics has insufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 54 and therefore denies the same.

55. Lakovics denies the allegations contained in paragraph 55 of the Complaint to the extent those allegations pertain to him. As to the remaining allegations, Lakovics has insufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 55 and therefore denies the same.

56. Lakovics denies the allegations contained in paragraph 56 of the Complaint to the extent those allegations pertain to him. As to the remaining allegations, Lakovics has insufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 56 and therefore denies the same.

57. Lakovics denies the allegations contained in paragraph 57 of the Complaint to the extent those allegations pertain to him. As to the remaining allegations, Lakovics has insufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 57 of the Complaint and therefore denies the same.

#### **REQUESTED RELIEF**

Lakovics denies the allegations in the Requested Relief as they pertain to Lakovics and has insufficient knowledge and information to form a belief as to the truth of all other allegations contained in the Requested Relief section of the Complaint and therefore denies the same.

Except as specifically admitted herein, any and all other allegations against Lakovics contained in Plaintiff's Complaint are expressly denied. Lakovics denies that plaintiff is entitled to any form of relief or damages of any kind.

#### **FIRST DEFENSE**

##### **Failure to State a Claim)**

58. Plaintiff's Complaint, in whole or in part, fails to state a claim or cause of action against Lakovics upon which relief can be granted.

**SECOND DEFENSE**

**(Lack of Personal Jurisdiction)**

59. This defendant is not subject to the personal jurisdiction of this court.

**THIRD DEFENSE**

**(Insufficient Service of Process)**

60. There was insufficient service of process on Lakovics.

**FOURTH DEFENSE**

**(No Punitive Damages)**

61. The conduct complained of by plaintiff precludes recovery for punitive damages.

**FIFTH DEFENSE**

**(Violation of Constitutional Rights)**

62. Punitive damages are a violation of State and Federal Constitutions.

**SIXTH DEFENSE**

**(Statute of Limitations)**

63. Part or all of plaintiff's claims as to Lakovics is barred by the applicable statute of limitations.

**ADDITIONAL DEFENSES**

64. Lakovics reserves the right to amend this answer to assert additional claims or defenses based on additional facts learned in discovery.

WHEREFORE, Lakovics prays for judgment in his favor and against plaintiff, and dismissing plaintiff's Complaint with prejudice, together with his costs incurred herein and all other such relief as the court may deem equitable and just.

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**JURY TRIAL DEMAND**

Defendant Lakovics requests trial by jury.

DATED this 23<sup>rd</sup> day of March, 2012.

HART WAGNER, LLP

By:

  
Ruth J. Hooper, OSB No. 774038  
Of Attorneys for Defendant  
Magnus Lakovics, MD

**CERTIFICATE OF SERVICE**

I hereby certify that on the 23<sup>rd</sup> day of March, 2012, I served the foregoing  
**DEFENDANT MAGNUS LAKOVICS, MD'S ANSWER TO PLAINTIFF'S COMPLAINT**  
**(JURY TRIAL REQUESTED)** on the following parties:

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Of Attorneys for Defendant Edward Palmer, MD

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Keating Jones  
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Portland, OR 97258  
Of Attorneys for Defendant Cascade Healthcare Community, Inc.

By causing a true copy to be sent electronically to each of them at the email addresses reflected above on said day.

  
Ruth J. Hooper